अपर आयुक्त, सीमा शुल्क का कार्यालय
OFFICE OF THE ADDITIONAL COMMISSIONER OF CUSTOMS
सूरत हीरा बोर्स, तीसरी मंजिल, सर कॉर्पोरेट सेंटर, टी.पी.स्कीम नं-**03**,
SURAT HIRA BOURSE, 3RD FLOOR, SAR CORPORATE CENTER, T.P.SCHEME NO. 03
कतारगाम, सूरत– **395004/KATARGAM, SURAT – 395004**
TEL.NO. 0261-2488300, FAX NO. 0261-2485600 email-shb.surat@gov.in

DIN : 20260471MN000049634F

PREAMBLE

A	फ़ाइल संख्या/ File No.	:	F. No. CUS/APR/ASS/92/2026-ICD-HB-SRT-CUS-COMMRTE-AHMEDABAD
B	कारण बताओ नोटिस संख्या–तारीख / Show Cause Notice No. and Date	:	The importer has requested for waiver of Show Cause Notice.
C	मूल आदेश संख्या/ Order-In-Original No.	:	OIO No. 01/ADC/LD/O&A/SHB/2026-27
D	आदेश तिथि/ Date of Order-In-Original	:	23.04.2026
E	जारी करनेकी तारीख/ Date of Issue	:	23.04.2026
F	द्वारापारित/ Passed By	:	Lokesh Damor Additional Commissioner, Customs Ahmedabad.
G	आयातक का नाम औरपता / Name and Address of Importer / Passenger	:	M/s. Niv Diamonds, Office No. 21, 2nd Floor, L. B. Palace, Jadakhadi, Mahidharpura, Surat-395003, Gujarat
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क(अपील), चौथी मंज़िल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।		
	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना		

(4)	होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।

BRIEF FACTS OF THE CASE

M/s. Niv Diamonds (IEC No.- 5214006373) having address at Office No. 21, 2nd Floor, L. B. Palace, Jadakhadi, Mahidharpura, Surat-395003, Gujarat (hereinafter referred to as 'Importer') imported 'Lab Grown Rough Diamond' (hereinafter referred to as 'subject goods') vide Bill of Entry No. 6820702 dated 10.01.2026 from the shipper M/s. Crysdiam Technology (HK) Co. Limited, Hong Kong under CTH 71042120 filed by Customs Broker i.e. M/s. B. K. Freight Forwarders Pvt. Ltd..

2. The parcel imported vide Bill of Entry no. 6820702 dated 10.01.2026 was examined on 13.01.2026. The subject goods were examined in the presence of Shri Chintan Ahir, H Card Holder (Card No. H/AMBD1/202518129 dated 16.01.2025), employee of the Customs Broker M/s. B. K. Freight Forwarders Pvt. Ltd... During the examination, it was found that importer has declared 2,167.753 carats of lab grown rough diamonds but 7636.874 carats of lab grown rough diamonds were found in the consignment. Thus, the subject goods were found mis-declared in respect of quantity w.r.t. import documents. Details of the goods declared in Bill of Entry No. 6820702 dated 10.01.2026 and that found during examination, are tabulated below: -

Declared Description of goods (CTH)	**Declared Quantity**	**Quantity found on examination**	**Invoice No. & date**	**Declared Value**	**Value of the goods found on examination**
Lab Grown Rough Diamond (71042120)	Weight - 2,167.753 Carat	Weight- 7636.874 Carat	No. HK-XSWS2026010401 dated 04.01.2026	59,185.95 USD (53,74,084.26 INR)	84,811.30 USD (77,00,866.04 INR)

3. The console / logistic company namely M/s. B. V. Chinai & Co. (India) Pvt. Ltd. vide letter dated 15.01.2026 submitted clarification that:

3.1 *Due to an inadvertent and genuine human error during the packing and dispatch process, two export shipments sent by M/s. Crysdiam*

Technology HK Co. Limited, Hongkong and forwarded by our overseas agent M/s. BRINKS HONG KONG LTD., were mistakenly swapped and dispatched to incorrect destinations.

3.2 *The shipment details are as under:*

Shipment–1 (Originally meant for PCCCC BKC Customs, Mumbai)

- *Invoice No.: HK-XSWS2025123001 dated 30/12/2025*
- *Commodity: Lab Grown Rough Diamonds*
- *Quantity: 7,636.874 Carats*
- *Invoice Value: USD 84,811.30*
- *Importer: M/s. Mauni Diamond*
- *HAWB No.: 11016857968*
- *Intended Customs Location: PCCCC – BKC, Mumbai (INDPC4)*

Shipment–2 (Originally meant for Surat Hira Bourse – Surat)

- *Invoice No.: HK-XSWS2026010401 dated 04/01/2026*
- *Commodity: Lab Grown Rough Diamonds*
- *Quantity: 2,167.753 Carats*
- *Invoice Value: USD 59,185.95*
- *Importer: M/s. NIV Diamonds*
- *HAWB No.: 11016857970*
- *Intended Customs Location: Surat Hira Bourse, Surat (INHIR6)*

3.3. *Due to the said packing error, the shipment meant for Surat Hira Bourse was inadvertently dispatched to PCCCC–BKC Customs, Mumbai and the shipment meant for PCCCC–BKC Customs, Mumbai was dispatched to Surat Hira Bourse, Surat. The error was noticed only after the goods had already been dispatched.*

3 . 4 *Considering the above facts and the genuine nature of the human error occurred during packing, we humbly request your good office to kindly permit return/back-to-town movement of the shipments to the shipper, so that the consignments may be correctly re-dispatched to their respective intended importers and customs locations.*

3.5 *In support of the above, we are enclosing herewith*

- *Clarification letter from the shipper confirming the packing and dispatch error*
- *Confirmation letters from both importers*
- *Relevant shipment documents"*

4. Importer M/s. Niv Diamonds, Surat vide letter dated 15.01.2026 submitted that:

4.1. *"We were the intended importer of a shipment of Lab Grown Rough Diamonds from M/s. CRYSDIAM TECHNOLOGY HK CO. LIMITED, forwarded by their overseas agent M/s. BRINKS HONG KONG LTD., as per the details given below:*

Invoice No.: HK-XSWS2026010401 dated 04/01/2026
Commodity: Lab Grown Rough Diamonds
Quantity: 2,167.753 Carats
Invoice Value: USD 59,185.95
HAWB No.: 11016857970
Intended Customs Location: Surat Hira Bourse, Surat (INHIR6)

4.2. *However, due to a genuine human error during packing at origin, the shipment meant for another importer (M/s. Mauni Diamond, intended for BKC Customs, Mumbai) was mistakenly dispatched and arrived at Surat Hira Bourse, while our shipment was dispatched to BKC Customs, Mumbai.*

4.3. *The said error was noticed only after the shipments had already been dispatched. We confirm that the shipment received at Surat Hira Bourse does not pertain to us, and the same was received due to the above-mentioned packing and dispatch mistake.*

4.4. *Considering the genuine nature of the error, we hereby request your good office to kindly permit the return/back-to-town movement of the wrongly received shipment to the shipper, so that the consignments can be correctly re-dispatched to their respective intended importers and customs locations.*

5. Another Importer M/s. Mauni Diamonds, Surat vide letter dated 15.01.2026 informed that their diamond parcel has mistakenly arrived at Surat Hira Bourse instead of PCCCC, Mumbai due to an error on the part of shipper / Brinks HK at the time of shipment
6. The Shipper M/s. Crysdiam Technology (Hongkong Co. Limited, Hongkong vide letter dated 15.01.2026 informed that total two shipments were dispatched on the same day but interchanging the parcel inside and the documents outside and this resulted in clerical error with Shipment having HAWB No. 1101-6857968.
7. Accordingly, a letter vide letter F. No. CUS/APR/ASS/92/2026-ICD-HB-SRT-CUS-COMMRTE-AHMEDABAD dated 23.01.2026 was sent to the Deputy Commissioner, Precious Cargo Customs Clearance Centre, Airport Special Cargo Commissionerate (PCCCC), Mumbai to confirm the above facts. Further, the Deputy Commissioner, PCCCC, Mumbai vide their letter F. No. CUS/AG/MISC/213/2026-PCCCC dated 09.02.2026 confirmed that the parcel originally meant/intended for Surat Hira Bourse has been received in PCCCC, BKC, Mumbai and informed that the matter is currently in adjudication stage.
8. Importer M/s. Niv Diamonds, Surat vide letter dated 16.02.2026 requested that they do not want any SCN and requested to send back parcel to origin.
9. The weight of the imported goods mentioned in the Bill of Entry,

HAWB & the invoice was totally different from the actual weight. Therefore, the subject goods were appeared liable for confiscation under Section 111(l) & 111(m) of the Customs Act 1962 and therefore, the said goods were detained vide Detention Memo No. 01/2025-26 dated 23.02.2026 as per the provisions of Section 110 of the Customs Act, 1962.

RECORD OF PERSONAL HEARING

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10. In order to comply the Principle of Natural Justice opportunity was granted to the noticee to appear before the undersigned for Hearing in Person on 21.04.2026, which was attended by Shri Jayant Patel, Partner, M/s. Niv Diamond and he submitted that the subject goods don't belong to him and it was a mistake on part of the shipper. Further, he requested for re-export of goods to original supplier.
11. The relevant provisions of Custom Act, 1962, with respect to subject matter, are reproduced as follows:

11.1 Section 46 of the Customs Act, 1962; Entry of goods on importation –

(4) The importer while presenting a Bill of Entry shall make and subscribe to a declaration as to the truth of the contents of such Bill of Entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, relating to the imported goods.

[46(4A): The importer who presents a Bill of Entry shall ensure the following, namely:-

(a) the accuracy and completeness of the information given therein;
(b) the authenticity and validity of any document supporting it; and
(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.]

11.2 Section 111 of the Customs Act, 1962; Confiscation of improperly imported goods, etc.

The following goods brought from a place outside India shall be liable to confiscation;-

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

(m) [any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment

referred to in the proviso to sub-section (1) of section 54;]

11.3 Section 112 of the Customs Act, 1962; Penalty for improper importation of goods, etc.

Any person, -
(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or
(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,
shall be liable,-

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [not exceeding the value of the goods or five thousand rupees], whichever is the greater;

[(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher :

Provided *that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the penalty so determined;]*

[(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;]

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty [not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty [not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.]

11.4 SECTION 125: Option to pay fine in lieu of confiscation –

(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:

[Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, [no such fine shall be imposed]:

Provided further that, without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

[(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.]

[(3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

Discussion and Findings

12. I have carefully gone through the facts of the case, written submission of the noticee and documents placed before me. I find it on record that M/s. Niv Diamonds (IEC No.- 5214006373) vide letter dated 16.02.2026 requested for waiver of show cause notice and that the importer has been given opportunity for being heard in person.
13. I find that M/s. Niv Diamonds (IEC No.- 5214006373) vide Bill of Entry No. 6820702 dated 10.01.2026 imported ‘Lab Grown Rough Diamonds’, details of the shipment are tabulated below:

Declared Description of goods (CTH)	Declared Quantity	Quantity found on examination	Invoice No. & date	Declared Value	Value of the goods found on examination
Lab Grown Rough Diamond (71042120)	Weight -2,167.753 Carat	Weight- 7636.874 Carat	No. HK-XSWS2026010401 dated 04.01.2026	59,185.95 USD (53,74,084.26 INR)	84,811.30 USD (77,00,866.04 INR)

14. I find that goods imported vide Bill of Entry no. 6820702 dated 10.01.2026 by M/s. Niv Diamonds were found mis-declared in respect in quantity on examination with respect to documents submitted at the time of import. I find that the goods imported vide Bill of Entry No. 6820702 dated 10.01.2026 were mis-declared with respect to both weight and value. The importer declared the goods as Lab Grown Rough Diamonds having a weight of 2,167.753 carats and a declared invoice value of USD 59,185.95 (INR 53,74,084.26) against Invoice No. HK-XSWS2026010401 dated 04.01.2026. However, upon examination, the actual weight was found to be 7,636.874 carats, with a revised assessable value of USD 84,811.30 (INR 77,00,866.04). The duty payable on the declared quantity (2,167 carats) was INR 43,246/- whereas the duty applicable on the actual quantity found (7,636 carats) was INR 61,970/-, resulting in a differential duty of INR 18,724/- payable by the importer.
15. From the documents on record, the examination report and letters submitted by the importers, the shipper, and the Console/Logistic Company, and the confirmation provided by the Deputy Commissioner, PCCCC, Airport Special Cargo Commissionerate, Mumbai vide letter dated 09.02.2026. I find that the parcels of both the shipments were swapped during packing by the shipper, which appears to be a bona fide mistake. I hold that the foreign supplier has swapped the parcels, resulting in misdeclaration of both the weight and the value of the goods exported to the said importer.
16. Upon careful examination of the subject matter, I find that the goods in question are Lab Grown Rough Diamonds and the same have been correctly declared in the Bill of Entry with respect to their description. However, the quantity and value declared therein are incorrect and mis-declared. Accordingly, I find it appropriate to reject the declared weight and value and determine the assessable weight as 7636.874 carats and the value as USD 84,811.30 (INR 77,00,866.04) for the purpose of Customs valuation. Since the subject goods do not correspond with the quantity and value declared in the subject Bill of Entry, I hold that the goods have been improperly imported and are therefore liable to confiscation under Section 111(l) and 111(m) of the Customs Act, 1962. I further note that the importer has stated that it does not wish to clear the subject goods. At this juncture, I draw attention to Section 125(1) of the Customs Act, 1962, reproduced as follows:

Section 125. Option to pay fine in lieu of confiscation. -

(1) Whenever confiscation of any goods is authorised by this Act,

the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods 1 [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:

[Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, 3 [no such fine shall be imposed]:

[Provided further that] , without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.]

(3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

*Explanation .-For removal of doubts, it is hereby declared that in cases where an order under sub-section (1) has been passed before the date** on which the Finance Bill, 2018 receives the assent of the President and no appeal is pending against such order as on that date, the option under said sub-section may be exercised within a period of one hundred and twenty days from the date on which such assent is received.]*

17. Since the subject goods are not prohibited goods, I find that, in terms of Section 125(1) of the Customs Act, 1962, the adjudicating authority is required to give an option to the importer to pay a fine in lieu of

confiscation. Further, as per the provisions of Section 125(3) of the Customs Act, 1962, where the fine imposed is not paid within a period of 120 days from the date on which such option is given, the option shall become void, unless an appeal against such order is pending. Accordingly, in terms of Section 125(1) of the Customs Act, 1962, I find it appropriate to extend the option to redeem the goods on payment of redemption fine in lieu of confiscation. Further, in terms of Section 125(2) of the Customs Act, 1962, I hold that if the importer exercises the option to redeem the goods on payment of redemption fine, the importer shall also be liable to pay the applicable duty in respect of such goods. Accordingly, I hold that the duty liability shall arise upon exercise of the option of redemption by the said importer.

18. I find that the goods covered under the subject Bill of Entry have been held liable to confiscation under Section 111(m) of the Customs Act, 1962 on account of misdeclaration of quantity and value. In terms of Section 112(a) of the Customs Act, 1962, any person who, by any act or omission, renders the goods liable to confiscation under Section 111 is liable to penalty. Although I have already observed that the importer filed the Bill of Entry on the basis of documents provided by the foreign supplier and there is no evidence of wilful misstatement, suppression of facts, or mala fide intention on the part of the importer or the Customs Broker, the fact remains that the subject goods were imported with incorrect quantity and value, rendering them liable to confiscation. Therefore, I find it appropriate to impose a penalty under Section 112(a) of the Customs Act, 1962 on the importer for such improper importation.

19. In conspectus of the aforementioned discussion and findings, I pass the following order:

ORDER

i. I reject the declared weight i.e. 2,167.753 Carats of the goods imported vide Bill of Entry No. 6820702 dated 10.01.2026 and order to re-determine the weight of goods to 7636.874 Carats.

ii. I reject the declared value of the i.e. 59,185.95 USD (53,74,084.26 INR) of the goods imported vide Bill of Entry No. 6820702 dated 10.01.2026 and order to redetermine the value of goods to 84,811.30 USD (77,00,866.04 INR).

iii. I order to confiscate the detained goods imported vide Bill of Entry No. 6820702 dated 10.01.2026 under Section 111(l) and 111(m) of the Customs Act, 1962. I order to give an option to the importer to redeem the said goods in lieu of confiscation on payment of redemption fine of Rs.10,000/- (Rupees Ten Thousand only) under the provisions of Section 125(1) of the Customs Act, 1962, for re-export of the said goods only.

iv. I impose a penalty of Rs.5,000/-(Rupees Five Thousand only), on the Importer, M/s. Niv Diamond, under Section 112(a) of the Customs Act, 1962.

20. This order has been passed without prejudice to any other action that

may be taken against the above-mentioned firm and person under the provision of the Customs Act, 1962 and/ or any other law, for time being in force in India.

Digitally signed by Lokesh Damor
Date: 23-04-2026 17:19:32

(Lokesh Damor)
Additional Commissioner
Surat Hira Bourse.

To,
M/s. Niv Diamonds (IEC: 0388042664))
Office No. 21, 2nd Floor, L. B. Palace,
Jadakhadi, Mahidharpura,
Surat-395003, Gujarat.

Copy to:-

1. The Principal Commissioner of Customs, Ahmedabad.
2. The Deputy Commissioner of Customs, Surat Hira Bourse, Surat.
3. The System In –Charge, Customs HQ, Ahmedabad for uploading on the official website i.e. http://www.ahmedabadcustoms.gov.in.
4. Guard File/Office copy.